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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/738,341	12/17/2003	Luc Lemmens	1316N-001643	9708

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EXAMINER
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SCHWARTZ, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/738,341

Applicant(s)

LEMMENS, LUC

Examiner

Christopher P. Schwartz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

### DETAILED ACTION

1. Applicant's response filed June 1, 2006 has been received and considered.

Claims 1-17 are pending in the application.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-17 remain rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's seem to rely at least in part upon the last passages of amended claim 1 for patentability. In their remarks at the bottom of page 9 of the response filed 12/14/05 applicants argued: "...The Examiner then combines Buma, et al. to provide a distance determining means. Buma, et al. teaches the use of a distance determining means to control the vehicle attitude but Buma, et al. does not control the damping characteristics based upon the fluid pressure in the springs...." The limitations were added to claim 1 in the amendment filed 6/8/05. As previously stated these limitations are considered to be new matter.

The specification at paragraph 0016 states that it is the control system 30 activating the compressor 36 that "adjusts the damping characteristics of the shock absorbers" based upon the position of the vehicle body as indicated by one of the height

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sensors 32. In paragraph 0028 applicants state "When the vehicle is in an unladen or low loaded condition, the air pressure within one or more of air springs 22 is reduced by control system 30. The reduction of air pressure within air spring 22 simultaneously reduce[s] the air pressure in a respective line **38 and thus a respective second pressure chamber 170...** See also the first sentence of paragraph 0029. The examiner concludes from the specification that it is the control system 30 in conjunction with based upon the height changes detected by the height sensors that control the damping characteristics of the shock absorber, not the valve assembly "...based upon the pressure of the fluid said spring", as claimed at the bottom of claim 1.

These limitations added by way of the amendment filed 6/8/05 constitute new matter (in light of the specification) and must be removed.

Claim 17 is rejected for the same reasons discussed in the Office Action mailed to applicants representative on 8/25/05. Where are these limitations in the specification as originally filed?

Based upon applicant's arguments for patentability, the claims remain confusing.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3,9,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Molina '239 in view of Buma et al. '554.

Regarding claims 1,17 subject to the 112 rejection above, De Molina '239 discloses a suspension damping system as clearly seen in figures 1 and 3 but lacks a specific discussion of a distance determining means between the unsprung portion and vehicle chassis. However, please see the discussion at the bottom of column 1 lines 60-67 over to the top of column 2.

The reference to Buma et al. is relied upon to teach such systems are notoriously well known in the art. Please see col. 4 last paragraph and elements 80-86. See also the top of column 5 lines 2-11.

From the teachings of the different methods of sensing vehicle height to control the level of damping in these references one having ordinary skill in the art at the time of the invention would have found it obvious to have modified the device of De Molina et al. with a height or distance sensor as taught by Buma to add an additional element of ride control to the vehicle. Such may be the case when the vehicle is expected to carry additional loads or to be used for towing applications. Applicant's newly claimed arrangement is simply an obvious alternative equivalent height sensing process to that taught by the references above.

Regarding claims 2,3,9 as can easily be seen in figures 1 and 3 of De Molina these requirements are met. Note the valve assembly at 110.

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6. Claims 4-16 rejected under 35 U.S.C. 103(a) as being unpatentable over De Molina in view of Buma as applied to claim 3 above, and further in view of either Heinz et al. or Patzenhauer et al. '885.

Regarding claim 4 De Molina, as modified above, lacks specifically showing the valve assembly 110 having open and closed positions through the interaction of elements 136 and 160, as discussed in col. 6.

However it would have been obvious to have either modified the valve accordingly such that the valve exhibited such characteristics at 136, 160 or to have modified the internals of the valve, as suggested by either Heinz or Patzenhauer such that the valve could be opened and closed upon specific pressure changes imparted thereto to regulate fluid flow between the chambers. Such an obvious modification would simply depend upon the ride characteristics desired from the shock absorber/suspension system.

The limitations of claims 5-8,10-16 are considered to be met in view of the modification and/or the combined teachings of the references above. Note the close similarity in the structure of the valves between applicant's and that of the pressure adjusting valve of Heinz. The valves of Heinz or Patzenhauer could be used as substitutes for that of de Molina.

### ***Response to Arguments***

7. Applicant's arguments filed 6/1/06 have been fully considered but they are not persuasive. It is unclear how applicant's amendments to the claims intended to

advance prosecution of the application. For the most part they don't add or change anything that was not there before.

Applicant's arguments have been previously addressed and are addressed in the action above.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

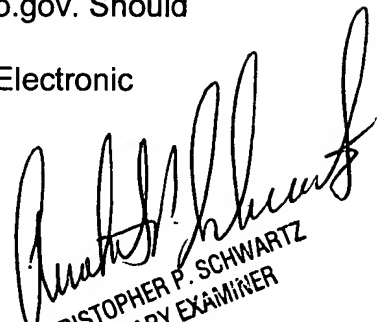
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 571-272-7123. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cps  
8/14/06



CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER